

## **IC 27-1-12.5**

### **Chapter 12.5. Nonforfeiture Provisions of Annuity Contracts**

#### **IC 27-1-12.5-1**

##### **"Annuity contract" defined**

Sec. 1. The term "annuity contract" as used in this chapter means:

- (1) any individual deferred annuity contract; and
- (2) any group annuity contract delivered or issued in connection with a plan providing individual retirement accounts or individual annuities under Section 408 of the Internal Revenue Code;

but does not refer to any other group annuity or to any reinsurance, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, and any annuity contract delivered outside this state through an agent or other representative of the company issuing the contract.

*As added by Acts 1977, P.L.286, SEC.1. Amended by P.L.2-1987, SEC.36.*

#### **IC 27-1-12.5-2**

##### **Provisions of contract**

Sec. 2. (a) No annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions, which in the opinion of the insurance commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

- (1) Upon cessation of payment of considerations under an annuity contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in sections 4, 5, 6, 7, and 9 of this chapter.
- (2) If an annuity contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in sections 4, 5, 7, and 9 of this chapter. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.
- (3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.
- (4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the annuity contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an

explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

(b) Notwithstanding the requirements of this chapter, any annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

*As added by Acts 1977, P.L.286, SEC.1.*

### **IC 27-1-12.5-3**

#### **Minimum nonforfeiture amounts**

Sec. 3. (a) The minimum values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) With respect to any annuity contract providing for flexible considerations, the minimum nonforfeiture amounts at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(1) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum; and

(2) the amount of any indebtedness to the company on the contract, including interest due and accrued;

and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less than an annual contract charge of thirty dollars (\$30) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract

year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(c) With respect to any annuity contract providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(2) The annual contract charge shall be the lesser of (i) thirty dollars (\$30) or (ii) ten percent (10%) of the gross annual consideration.

(d) With respect to any annuity contract providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75).

(e) Notwithstanding any other provision of this section, the minimum nonforfeiture amount for any contract issued on or after July 1, 2002, and before July 1, 2004, shall be based on a rate of interest of one and one-half percent (1.5%) per annum.

*As added by Acts 1977, P.L.286, SEC.1. Amended by P.L.130-2002, SEC.1.*

#### **IC 27-1-12.5-4**

##### **Paid-up benefits**

Sec. 4. Any paid-up annuity benefit available under any annuity contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

*As added by Acts 1977, P.L.286, SEC.1.*

#### **IC 27-1-12.5-5**

##### **Cash surrender benefits**

Sec. 5. If an annuity contract provides cash surrender benefits, the amount of these benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount

appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such an annuity contract shall be at least equal to the cash surrender benefit. *As added by Acts 1977, P.L.286, SEC.1.*

#### **IC 27-1-12.5-6**

##### **Paid-up annuity benefit available as nonforfeiture option where no cash surrender benefits**

Sec. 6. If an annuity contract does not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. The present values for an annuity contract, not providing any death benefits prior to the commencement of any annuity payments, shall be calculated on the basis of the interest rate and mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

*As added by Acts 1977, P.L.286, SEC.1.*

#### **IC 27-1-12.5-7**

##### **Maturity date determination**

Sec. 7. For the purpose of determining the benefits calculated under sections 5 and 6, in the case of an annuity contract under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

*As added by Acts 1977, P.L.286, SEC.1.*

#### **IC 27-1-12.5-8**

##### **Statement of benefits not provided**

Sec. 8. Any annuity contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

*As added by Acts 1977, P.L.286, SEC.1.*

#### **IC 27-1-12.5-9**

##### **Allowance for lapse of time and payment of scheduled considerations**

Sec. 9. Under any annuity contract with fixed scheduled considerations, any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

*As added by Acts 1977, P.L.286, SEC.1.*

#### **IC 27-1-12.5-10**

##### **Life insurance; additional benefits**

Sec. 10. If any annuity contract provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of sections 4, 5, 6, 7, and 9, additional benefits payable (i) in the event of total and permanent disability, (ii) as reversionary annuity or deferred reversionary annuity benefits, or (iii) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this chapter. The inclusion of such additional benefits shall not be required in any paid-up benefits unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

*As added by Acts 1977, P.L.286, SEC.1.*